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19 JAN 2006

ARNOLD & PORTER LLP (18528)
555 TWELFTH ST, NW
WASHINGTON, DC 20004

In re Application of YOUNG et al :
U.S. Application No.: 10/533,388 :
PCT Application No.: PCT/US00/19497 :
Int. Filing Date: 13 July 2000 : DECISION
Priority Date Claimed: 13 July 1999 :
Attorney Docket No.: 18528.188/18528.853 :
For: THE USE OF MEMBRANES, CELLS AND :
TISSUE FROM THE AREA POSTREMA . . . :

This is in response to applicant's "Petition Under 37 CFR 1.137(b) for Revival of an Unintentionally Abandoned International Patent Application Designating the United States" filed 29 April 2005.

BACKGROUND

On 13 July 2000, applicant filed international application PCT/US00/19497, which claimed priority of an earlier United States application filed 13 July 1999. A Demand for international preliminary examination, in which the United States was elected, was filed on 12 February 2001, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired on 13 January 2002.

International application PCT/US00/19497 became abandoned as to the United States for failure to timely pay the basic national fee.

On 29 April 2005, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire

delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

The above-identified application has been abandoned for an extended period of time. The USPTO is relying on petitioner's duty of candor and good faith and accepting applicant's statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure 62 Fed. Reg. at 53160 and 53718, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the United States Patent and Trademark Office.)

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 13 July 2000, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 29 April 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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